

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 239 OF 2005

IN

FIRST APPEAL NO. 204 OF 2005

SMT.NALINI VYANKTESH SABNIS AND 3
ORS.,

....Applicants

Versus

SMT.MANIKABAI ANANT KAMAT AND 8
ORS.,

....Respondents

Shri Valmiki Menezes, Advocate for the Applicants.
Shri Sudin Usgaonkar, Advocate for the Respondents.

Coram:- R. M. LODHA, J.

Date:- 27th October, 2005

P.C.:

Heard.

Taking overall facts and circumstances of the case, I am satisfied that pending First Appeal there deserves to be stay to the execution of the Decree passed by the Civil Judge S.D., Ponda on 30th April, 2005 directing the eviction of the appellants from the portion of the residential house namely one hall, two rooms and a kitchen of House No.654/1 at Manaswada, Kundaim, subject to the following conditions, hence the order :-

(1) The appellants shall file an undertaking before this Court within three weeks from today that in the event of the First Appeal being dismissed by this Court, they shall hand over peaceful and vacant possession of the subject property to the decree-holders within two

months of the decision in the First Appeal.

(2) The appellants shall pay to the Decree Holders compensation at the rate of Rs.800/- per month beginning from the month of October, 2005. Such payment shall be made by way of banker's cheque or Demand Draft drawn in the name of the Respondent No.2 Dharmanand Anant Kamat on or before 10th November, 2005. The compensation for the subsequent months shall be paid in the same mode and manner.

(3) In case the appellants commit default in payment of compensation of two months consecutively, the stay order shall stand vacated automatically.

(4) The appellants shall not create any third party right or interest in the subject property nor shall they cause any material alteration therein.

Upon compliance of the aforesaid conditions by the appellants, they shall not be dispossessed from the subject property during the pendency of the First Appeal.

It is clarified that in the event of the appellants succeeding in the First Appeal, the amount paid by the appellants to the respondents through Respondent No.2 shall be restituted by the respondents within four weeks of the decision in First Appeal.

Civil Application stands disposed of.

R. M. LODHA, J.

sl.